

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

**CHRIS CHESLEY, JASON HEROUX,
DAVID MOOSMAN, JOHN PATTERSON,
CHRISTOPHER THOMAS, ALLAN
AREL, and DAVID HUTCHINSON,**

Plaintiffs,

v.

**DIRECTV, INC., DIRECTV, LLC, and
MULTIBAND CORP.,**

Defendants.

Case No. 1:14-cv-00468-PB

**PLAINTIFFS' CONDITIONAL MOTION FOR TIME
WITHIN WHICH TO SEEK LEAVE TO AMEND SHOULD
COURT GRANT DEFENDANTS' MOTIONS TO DISMISS**

Plaintiffs hereby request that the Court, should it grant Defendants' pending Motions To Dismiss (Docs. 20 & 22), permit Plaintiffs thirty (30) days to file a motion for leave to amend pursuant to Rule 15(a)(2). This motion is submitted out of an abundance of caution and in light of Local Rule 7.1(a)(1) that including a request for leave to amend within a responsive brief opposing a motion to dismiss is improper. *See L'Esperance v. HSB Consumer Lending, Inc.*, Case No. 11-cv-555-LM, 2012 DNH 104; 2012 U.S. Dist. LEXIS 80937 (D.N.H. June 12, 2012).

In support, Plaintiffs state a motion for leave to amend would not be futile. Given the judicial preference for resolving claims on their merits, Plaintiffs therefore request that, if the Court grants any part of Defendants' Motion to Dismiss (Doc. 20 & 22), that the Court simultaneously permit Plaintiffs thirty (30) days within which to file a motion for leave to amend their Complaint pursuant to Rule 15(a).

Dated: May 18, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jon Meyer, hereby certify that a copy of the foregoing PLAINTIFFS' SECOND NOTICE OF SUPPLEMENTAL AUTHORITY has been forwarded this 18th day of May, 2015, electronically through the ECF to all the registered participants identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

/s/ H. Jonathan Meyer

H. Jonathan Meyer, Esq.